

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RICHARD W. CALDARONE,

Plaintiff,

vs.

RONALD L. CALDARONE, DAVE
STRACHMAN,

Defendants.

Case No. 20-cv-00472-DKW-KJM

**ORDER DENYING PLAINTIFF'S
REQUESTS (1) TO DELAY
RONALD CALDARONE'S
MOTION TO DISMISS; AND (2)
TO REQUIRE THE U.S.
MARSHAL'S SERVICE TO
EFFECT SERVICE ON DAVE
STRACHMAN**

On July 30, 2021, Plaintiff Richard Caldarone filed a motion, which the Court construes as requesting either an extension to file a response to his brother, Ronald Caldarone's motion to dismiss, Dkt. No. 43, or a stay of proceedings in this case. Dkt. No. 56. Richard argues the Court should delay ruling, and presumably further briefing, on Ronald's motion to dismiss until after investigations related to Rhode Island state probate proceedings concerning Richard and Ronald's parents' estates are complete. *Id.* Richard also asks the Court to order the U.S. Marshal to effect service of the complaint on Defendant Dave Strachman. *Id.* Each request is addressed in turn.

There is no good cause to delay ruling on Ronald Caldarone's motion to dismiss. Ronald Caldarone's motion to dismiss rests solely on his assertion that this Court lacks personal jurisdiction over him. Dkt. No. 43. Investigations into

Richard and Ronald's parents' estates in Rhode Island do not bear on this Court's personal jurisdiction over Ronald, nor do investigations into Ronald's Rhode Island bank records or a Rhode Island-based nursing home. *See* Dkt. No. 56 (arguing they do). Accordingly, Richard's request that the Court delay consideration of Ronald's motion to dismiss is DENIED.

Likewise, the Court finds no good cause for ordering the U.S. Marshal's Service to effect service on Strachman. Generally, "[t]he plaintiff is responsible for having the summons and complaint served. . . ." Fed. R. Civ. P. 4(c)(1). However, "[a]t the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court." Fed. R. Civ. P. 4(c)(3). The Court is only required to order the U.S. Marshal's Service to effect service when a *pro se* litigant proceeds *in forma pauperis* pursuant to 28 U.S.C. §§ 1915, 1916. *Id.* Richard has made no request and has not been granted authority to proceed *in forma pauperis*. *See* Dkt. No. 3 (paying filing fee). Thus, whether to grant his request is at the Court's discretion. *See* Fed. R. Civ. P. 4(c)(3).

Richard represents that Strachman is the attorney representing Ronald in the Rhode Island state probate proceedings concerning his and Ronald's parents' estates. Dkt. No. 1. Richard has an address for Strachman and knows the law firm with which he is affiliated. *Id.* Moreover, Richard has communicated to the Court

that he is represented in those Rhode Island state probate proceedings. *See* Dkt. Nos. 55, 56. That Strachman, as attorney to Ronald in those proceedings, is inaccessible to Richard or his process server is not plausible, and nothing to the contrary has been offered. And given the level of personal information Richard has about Strachman and Richard's representation in Rhode Island, the Court finds no good cause to require the U.S. Marshal's Service to effect service. The responsibility to effect service on Strachman shall rest and remain where it belongs: with Richard. *See* Fed. R. Civ. P. 4(c)(1). Thus, Richard's request that the Court order the U.S. Marshal's Service to effect service on Strachman is DENIED.

Separately, the Court notes that Richard refers to an upcoming "[m]eeting with" the undersigned on August 13, 2021. Dkt. No. 56. The Court informed the parties on July 27, 2021 that the August 13, 2021 hearing on Ronald's motion to dismiss was vacated, and the Court would be deciding the motion without a hearing. Dkt. No. 54. Nothing else is scheduled for August 13. The Court reminds Richard that his response to Ronald's motion to dismiss is due no later than August 11, 2021. *Id.*

IT IS SO ORDERED.

Dated: August 3, 2021 at Honolulu, Hawai'i.




Derrick K. Watson
United States District Judge

Richard W. Caldarone v. Ronald L. Caldarone, Dave Strachman, Civil No. 20-00472-DKW-KJM; **ORDER DENYING PLAINTIFF'S REQUESTS (1) TO DELAY RONALD CALDARONE'S MOTION TO DISMISS; AND (2) TO REQUIRE THE U.S. MARSHAL'S SERVICE TO EFFECT SERVICE ON DAVE STRACHMAN**